

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2017

CORAM:

THE HON'BLE JUSTICE **C.V.KARTHIKEYAN****C.S. No. 583 of 2017**
and A.No.5432 of 2017

Hanudev Investments Private limited,
represented by its Director, Mrs.SHobana Ravi, having
Office at RR Tower III, TVK Industrial Estate,
Guindy, Chennai 600 032. .. Plaintiff

Vs

1. Oriental Bank of Commerce,
63, Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004.
2. JM Financial Asset Reconstruction Company Limited,
represented by its Directors, having office at 7th Floor,
Cnergy, Appasaheb Marathe Marg, Prabhadevi,
Mumbai - 400 025. .. Defendants

For Plaintiff : M/s.Vineet Subramani

For Defendant-1 : M/s.R.Raghu Raja

For Defendant-2 : M/s.M.L. Ganesh

PRAYER : Plaintiff has been filed Under Order IV Rule 1 of O.S. Rules read with Order VII, Rule 1 of Civil Procedure code, (a) Permanent injunction restraining the defendants, their men, agents, partner,

associate, officer, representative, servant and all other persons acting on defendants' behalf from in any manner discharging the plaintiff's *pari passu* charge over the secured properties as identified in the Letter dated 29.04.2009 issued by the 1st defendant ceding such *pari passu* charge without the prior consent of the Plaintiff; (b) Award damages of Rs.25,00,100/-(Rupees Twenty Five Lakhs One Hundred Only) to the plaintiff and to pay the cost of the suit.

J U D G M E N T

An interim Order was granted by this Court, protecting the rights of the plaintiff. The interim order was passed in O.A.Nos.729 & 730 of 2017 stating that the auction shall continue, but, however, there can be no confirmation excepting under the Orders of this Court.

2. Subsequently, the second defendant entered appearance and he had filed an application in A.No.5432 of 2017 under Order 7 Rule 11 of Code of Civil Procedure. In the affidavit in paragraph-13, it had been stated as follows;

"I further submit that no cause of action survives for the 1st respondent/plaintiff as no bids were received and the sale did not happen".

3. Since auction did not take place as apprehended by the plaintiff, the cause of action for the plaintiff does not survive. The

cause of action for instituting the suit was with respect to the auction to be conducted by the 2nd defendant. Auction did not take place. Such statement is recorded.

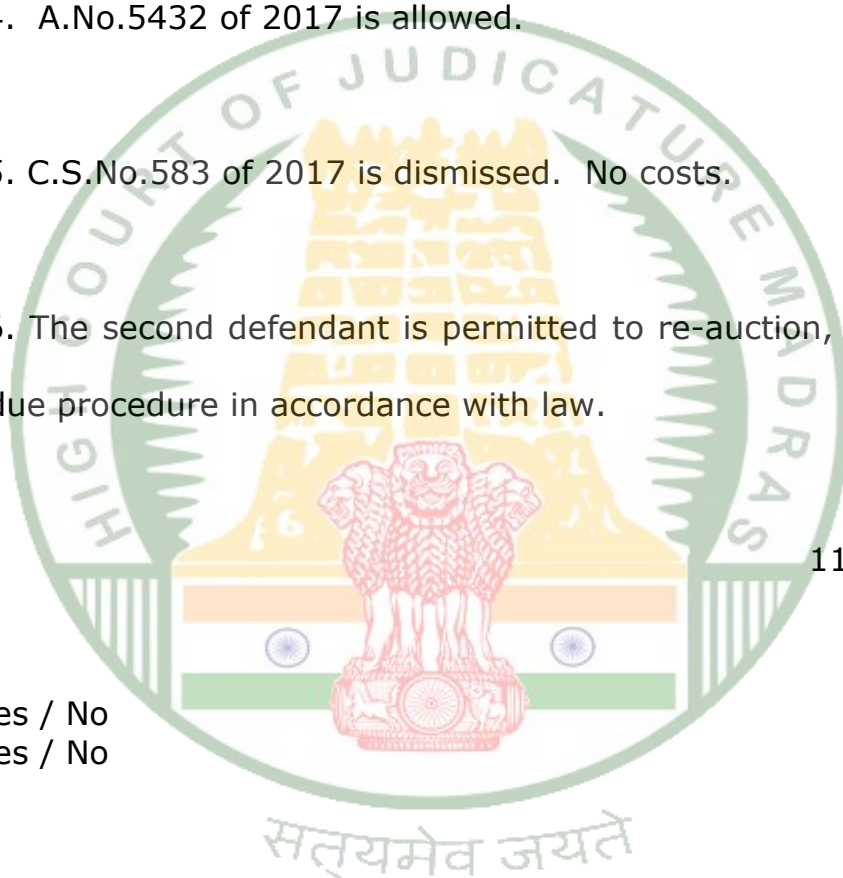
4. A.No.5432 of 2017 is allowed.

5. C.S.No.583 of 2017 is dismissed. No costs.

6. The second defendant is permitted to re-auction, however, following due procedure in accordance with law.

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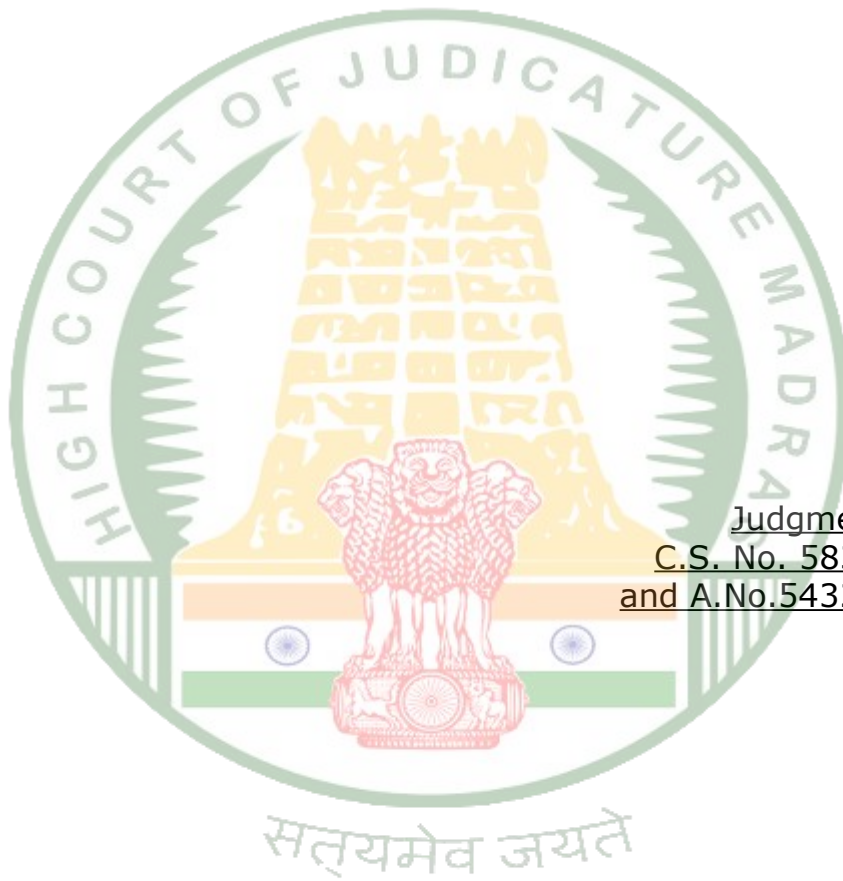
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C.V.KARTHIKEYAN, J

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Judgment in
C.S. No. 583 of 2017
and A.No.5432 of 2017

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